

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ANTAEUS DIANDRE MOORE §
VS. § CIVIL ACTION NO. 6:19cv551
UNITED STATES OF AMERICA § CRIM NO. 6:18cr19

**ORDER ADOPTING REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

Movant Antaeus Diandre Moore, a federal prisoner proceeding *pro se*, brings this motion to vacate, set aside, or correct his federal sentence pursuant to 28 U.S.C. § 2255. The motion was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition of the case.

On December 12, 2022, Judge Mitchell issued a Report recommending that Movant's section 2255 proceeding be dismissed without prejudice for Movant's failure to prosecute his case. Judge Mitchell further recommended that Movant be denied a certificate of appealability *sua sponte*. Docket No. 16. A copy of this Report was sent to Movant at his last-known address with an acknowledgment card. The docket reflects, however, that the mail was returned as "undeliverable." Docket No. 17. Movant has neither filed objections to the Report nor otherwise communicated with the Court.

The Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire

record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten days to fourteen days).

Here, Movant has not filed objections. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 16) as the findings of this Court. Therefore, it is

ORDERED that the above-styled section 2255 proceeding is **DISMISSED** without prejudice for Movant's failure to prosecute his case. Movant is further **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 12th day of **January, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE